

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

DEBRA JARETT-BEVERS AND]
BOB BEVERS, HUSBAND]

Plaintiff,]

C/A No. 3:06-12-MJP

vs.]

ORDER

TLD AMERICA:]
NMC-WOLLARD INC:]
PHOENIX METAL PRODUCTS]
INC: JOHN DOE]
MANUFACTURER:]
AND JOHN DOE DISTRIBUTOR]

Defendants.]

In the underlying action the plaintiffs, Debra Jarrett-Beavers and Bob Beavers, proceeding *pro se*, initiated the instant action against the defendants alleging *inter alia* negligence, strict liability and breach of warranty. The defendant, Phoenix Metal, denies the plaintiffs' allegations and has moved for summary judgment. The plaintiffs have not responded to the defendant's motion.

This matter now is before the court upon report and recommendation of Magistrate Judge Joseph McCrorey to whom it was referred for review pursuant to 28 U.S.C. §

636(b)(1)(B) and this Court's Local Rules. Magistrate Judge McCrorey has recommended the Court dismiss the plaintiffs' complaint against defendant Phoenix Metals due to plaintiffs' failure to comply with the orders. The Magistrate Judge also recommends that the Court dismiss defendants TLD America, NMC-Wollard, Inc., Joe Doe Manufacturer and John Doe Distributor due to plaintiffs' failure to to serve these defendants. The plaintiffs have not objected to the Magistrate Judge's recommendation.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. Matthews. V. Weber, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of those portions of the report and recommendation to which specific objection is made. 28 U.S. C. § 636(b)(1)(C). However, the Court is not required to review under a *de novo* or any other standard, the factual or legal conclusions of the Magistrate Judge as to those portions of the recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 240 (1985).

Upon careful **de novo** review, the Court concurs with the Magistrate Judge's recommendation that this case be dismissed. The record reflects that the Court advised the plaintiffs of the summary judgment procedure and the possible consequences if they failed to adequately respond to the defendant's motion.

Rule 41(b) of the Federal Rules of Civil Procedure provides that a complaint may be dismissed for failure to prosecute. Here, the plaintiffs are proceeding *pro se* and are responsible for their own actions. The recommendation of the Magistrate Judge is approved.

Accordingly, this matter is hereby DISMISSED..

IT IS SO ORDERED.

s/MATTHEW J. PERRY, JR.
SENIOR UNITED STATES DISTRICT JUDGE

May 30, 2007.
Columbia, South Carolina.